



February 10, 1999

SENATE BILL No. 64

DIGEST OF SB 64 (Updated February 8, 1999 6:00 p.m.) - DI KCC)

Citations Affected: IC 35-47.

Synopsis: Sale of confiscated weapons. Provides that confiscated handguns and similar weapons may be sold by a law enforcement authority at a public auction or to licensed firearms dealers only if the law enforcement agency determines that the handguns or similar weapons are generally regarded as collector's items or of significant or historical value.

Effective: Upon passage.

Lubbers

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.

February 9, 1999, amended; reassigned to Committee on Corrections, Criminal and Civil Procedure.

SB 64—LS 6146/DI 13+



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February 10, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 64

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-3-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section
3 applies only to firearms which are not required to be registered in the
4 National Firearms Registration and Transfer Record.

5 (b) Firearms shall be returned to the rightful owner at once
6 following final disposition of the cause if a return has not already
7 occurred under the terms of IC 35-33-5. If the rightful ownership is not
8 known the law enforcement agency holding the firearm shall make a
9 reasonable attempt to ascertain the rightful ownership and cause the
10 return of the firearm. However, nothing in this chapter shall be
11 construed as requiring the return of firearms to rightful owners who
12 have been convicted for the misuse of firearms. In such cases, the court
13 may provide for the return of the firearm in question or order that the
14 firearm be at once delivered:

15 (1) except as provided in subdivision (2), to the sheriff's
16 department of the county in which the offense occurred; or
17 (2) to the city or town police force that confiscated the firearm, if:

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(A) a member of the city or town police force confiscated the firearm; and

(B) the city or town has a population of more than two thousand five hundred (2,500) and less than two hundred fifty thousand (250,000).

(c) The receiving law enforcement agency shall dispose of firearms under subsection (b), at the discretion of the law enforcement agency, not more than one hundred twenty (120) days following receipt by use of any of the following procedures:

(1) This subdivision applies only to firearms that a law enforcement agency considers to be generally regarded as collector's items or of significant value or historical value.

Public sale of the firearms to the general public as follows:

(A) Notice of the sale shall be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days prior to the sale.

(B) Disposition of the firearm shall be by public auction in a place convenient to the general public, with disposition going to the highest bidder. However, no firearm shall be transferred to any bidder if that bidder is not lawfully eligible to receive and possess firearms according to the laws of the United States and Indiana.

(C) All handguns transferred under this subdivision shall also be transferred according to the transfer procedures set forth in this article.

(D) Money collected pursuant to the sales shall first be used to defray the necessary costs of administering this subdivision with any surplus to be:

(i) deposited into the receiving law enforcement agency's firearms training fund, if the law enforcement agency is a county law enforcement agency, or into a continuing education fund established under IC 5-2-8-2, if the law enforcement agency is a city or town law enforcement agency; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, if the law enforcement agency is a county law enforcement agency, or for law enforcement purposes, if the law enforcement



agency is a city or town law enforcement agency.

(2) **This subdivision applies only to firearms that a law enforcement agency considers to be generally regarded as collector's items or of significant value or historical value.**

Sale of the firearms to a licensed firearms dealer as follows:

(A) Notice of the sale must be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days before the sale.

(B) Disposition of the firearm shall be by auction with disposition going to the highest bidder who is a licensed firearms dealer.

(C) Money collected from the sales shall first be used to defray the necessary costs of administering this subdivision and any surplus shall be:

(i) deposited into the receiving law enforcement agency's firearms training fund or other appropriate training activities fund; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

(3) Sale or transfer of the firearms to another law enforcement agency.

(4) Release to the state police department laboratory or other forensic laboratory administered by the state or a political subdivision (as defined in IC 36-1-2-13) for the purposes of research, training, and comparison in conjunction with the forensic examination of firearms evidence.

(5) Destruction of the firearms.

(d) Notwithstanding the requirement of this section mandating disposal of firearms not more than one hundred twenty (120) days following receipt, the receiving law enforcement agency may at its discretion hold firearms it may receive until a sufficient number has accumulated to defray the costs of administering this section if a delay does not exceed one hundred eighty (180) days from the date of receipt of the first firearm in the sale lot. In any event, all confiscated firearms shall be disposed of as promptly as possible.

(e) When a firearm is delivered to the state police department laboratory or other forensic laboratory under subsection ~~(c)(4)~~ (c)(2) and the state police department laboratory or other forensic laboratory



1 determines the laboratory has no further need for the firearm in
2 question, the laboratory shall return the firearm to the law enforcement
3 agency for disposal under subsection (c).

4 **SECTION 2. An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 64 and that Senator Lubbers be substituted therefor.

GARTON

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 64, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Delete everything after the enacting clause and insert the following:

Page 1, delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal, and Civil Procedures.

(Reference is to SB 64 as introduced.)

GARTON, Chairperson

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